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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,733	12/27/2000	Octavius J. Morris	PHB34445US	7632

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EXAMINER

CHANG, RICHARD

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 05/28/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,733

Applicant(s)

MORRIS, OCTAVIUS J.

Examiner

Richard Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 13-24 is/are rejected.
- 7) ☒ Claim(s) 2-12 and 25-27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/27/00 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered second claim 14 has been renumbered as claim 15.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding method claims 17-23, claims 17-23 are vague and indefinite since there are no positively recited method steps in the claims for defining an actual process for the method. Proper recitation for method claim shall list a series of method steps in clear and concise language. See *Ex parte Erlich*, 3 USPQ 2d 1011 at 1017[6].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 13-16, and 24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US patent No. 6,567,409 ("Tozaki et al").

Regarding claims 1, 15 and 24, Tozaki et al teach a data stream converting apparatus 84 and the method to convert MPEG-2 PS data stream to TS data stream (A method of converting an input data stream having a Program Stream (PS) format into an output data stream having a Transport Stream (TS) format) (See Fig. 6, Col. 12, lines 57-63) comprising a method of accumulating the first data stream which includes a plurality of first data groups into a first converting buffer (reading from said input data stream successive blocks of data, said input data stream including data of at least first and second elementary data streams formed and multiplexed in compliance with a PS decoder model, accumulating the data of the first and second elementary streams respectively in first and second queue structures) (See Col. 1, lines 61-65), converting a program stream supplied from a first buffer for accumulating the program stream into a transport stream standardized by MPEG-2, and supplying the transport stream to a

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second buffer for accumulating the transport stream (establishing a TS target decoder model including hypothetical first and second buffers for the first and second elementary streams respectively generating a succession of transport packets to form said output data stream conveying said first and second data streams in said TS format, by reference to said target decoder model) (See Fig. 6, Col. 3, lines 34-64), setting up the upper limit and the lower limit and the capacity of the buffer on the basis of the difference between these limits and calculating a difference between the first amount and the second amount (updating the status of said hypothetical first and second buffers within said TS target decoder in response to each transport packet generated and predetermined properties of said decoder model; wherein each transport packet comprises data from either the first queue, the second queue or neither queue, depending on the scheduling of said elementary streams within the input data stream and on the state of said first and second buffers within said TS target decoder model) (See Col. 20, lines 19-34), preventing that the converting operation suspended due to occurrence of lack of data in the second buffer (and wherein the method includes inhibiting reading of a further data block from said stream when, in the absence of a vacancy for data of said second elementary stream within the target decoder model) (See Col. 24, lines 37-56), and calculating the first amount by using the extracted SCR and the measured elapsed time (a clock reference of said input data stream advances beyond a clock reference of said output data stream by a predetermined waiting threshold) (See Col. 4, lines 59-67),.

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Regarding claims 13-14, Tozaki et al future teach a method of extracting the video packs and the audio packs from the PS and separately supplying the video packs and the audio packs to the video buffer and the audio buffer (A method as claimed in claim 1 wherein data of the first elementary stream comprises encoded video pictures and the data of the second elementary stream comprises encoded audio frames) and where the average data rate in the video buffer is substantially greater than the average data rate in the audio buffer (A method as claimed in claim 1 wherein the average data rate of the first elementary stream is substantially greater than that of the second elementary stream); (See Fig.4A, Col. 10, lines 44-67).

Regarding claims 16, Tozaki et al future teach a method for converting the PS reproduced from the DVD 1 into the TS and outputting this TS to a television designed to reproduce and display audio and visual information provided by the TS (A method of reproducing a recorded audio-visual programme wherein a data stream in PS format is read from a data channel, converted to a TS format by a method as claimed in claim 1 and fed via a further channel to an TS-compatible decoder); (See Fig. 6, Col. 12, lines 57-63).

Allowable Subject Matter

Claims 2-12 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if no art rejection can be applied.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chang whose telephone number is 703-605-4398. The examiner can normally be reached on Regular.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard Chang
Patent Examiner
Art Unit 2663

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